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6 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
7 **IN AND FOR THE COUNTY OF SKAGIT**

8 PACIFIC CRUISES NORTHWEST, INC., a
9 Washington profit corporation; SAN JUAN
10 SAFARIS, LLC, a Washington limited liability
11 company; ISLAND ADVENTURES, INC., a
12 Washington profit corporation; PUGET
13 SOUND EXPRESS, INC., a Washington
14 profit corporation,

15 Plaintiffs,

16 vs.

17 SOUTHERN RESIDENT PROTECTION, an
18 unregistered political committee; SORREL
19 NORTH, an individual; SAN JUAN COUNTY,
20 a Washington county; and F. MILENE
21 HENLEY, only in her official capacity as
22 County Auditor of San Juan County,

23 Defendants.

NO.

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF
CONCERNING SAN JUAN COUNTY
ORCA PROTECTION INITIATIVE, NO.
2019-9 (THE "INITIATIVE")

24 Plaintiffs, by and through their undersigned attorneys, seek a declaratory judgment
25 pursuant to RCW 7.24 on the validity of an initiative measure with corresponding injunctive
relief, and in support, Plaintiffs allege as follows:

I. PARTIES AND JURISDICTION

1.1 Pacific Cruises Northwest, Inc., doing business as San Juan Cruises is a
Whatcom County based business which operates whale watching tours from Bellingham
Washington to waters in and around the San Juan Islands.

1 1.2 San Juan Safaris, LLC is a San Juan County based limited liability company
2 which operates whale watching tours from Friday Harbor, Washington to waters in and
3 around the San Juan Islands.

4 1.3 Island Adventures, Inc. is a Skagit County based corporation which
5 operates whale watching tours from Anacortes, Washington to waters in and around the
6 San Juan Islands.

7 1.4 Puget Sound Express, Inc. is a Jefferson County based corporation which
8 operates whale watching tours from Port Townsend, Washington and Edmonds,
9 Washington to the waters in and around the San Juan Islands.

10 1.5 These Plaintiffs are collectively referred to herein as "Plaintiffs."

11 1.6 Upon information and belief, Defendant Southern Resident Protection
12 organization is an unregistered political committee doing business in San Juan County,
13 Washington.

14 1.7 Southern Resident Protection organization is the organization responsible
15 for generating and submitting San Juan County Orca Protection Initiative, No. 2019-9 (the
16 "Initiative"), a copy of which is attached as Exhibit "A."

17 1.8 Upon information and belief, Defendant Sorrel North ("North") is a member
18 and/or officer of Defendant Southern Resident Protection organization and a resident of
19 Lopez Island, San Juan County, Washington. Sorrel North is the signatory on behalf of
20 Defendant Southern Resident Protection organization on the Initiative Submission Form, a
21 copy of which is attached as Exhibit "B."

22 1.9 Defendant San Juan County (the "County") is a Washington county.

23 1.10 Defendant F. Milene Henley is the duly elected County Auditor for San Juan
24 County (the "Auditor") and is named herein only in her official capacity as the Auditor.

25 1.11 Venue is appropriate in this court as a county adjacent to San Juan County.

II. FACTUAL BACKGROUND

2.1. Southern resident killer whales, or orcas ("Southern Resident Orcas") population is composed of the J, K and L pods. Travelling in these pods of extended family members, orcas range from central Southeast Alaska to central California but spend most of the year near the San Juan Islands, on the outer coast of Washington and the outer coast of southern Vancouver Island. In pursuit of migrating salmon, Southern Resident Orcas are known to forage farther south in the Puget Sound during the fall and spend time near the Columbia River mouth in winter.

2.2. In 2005, the Southern Resident Orcas were listed as endangered under the federal Endangered Species Act ("ESA").

2.3. For the eleven years since 2008, the State of Washington has regulated protection of the Southern Resident Orcas under RCW 77.15.740, including regulating the distance within which a vessel could approach a Southern Resident Orcas.

2.4. On April 8, 2011, after a two-year federal rule making process, the National Oceanic and Atmospheric Administration ("NOAA"), through the regional National Marine Fisheries Service, adopted the *Protective Regulations for Killer Whales in the Northwest Region under the Endangered Species Act and Marine Mammal Protection Act* ("NOAA Regs"). These regulations are found at 76 FR 20860. Under the NOAA regulations, vessels are required to maintain distances of at least two hundred (200) yards at minimum from any Southern Resident Orcas, and four hundred (400) yards distance for any vessel placing itself in the path of a Southern Resident Orca.

2.5. Using its delegated authority from the federal law, Washington amended RCW 77.15.740 in 2012 to incorporate the same vessel distances as required by the NOAA regulations, i.e. the 2012 revised RCW 77.15.740 established minimum buffers requiring vessels to be at least two hundred (200) yards from Southern Residents, with a

1 four hundred (400) yard buffer implemented for any vessel in the path of a Southern
2 Resident. This restriction was in place as of the 2019 legislative session.

3 2.6. In March 14, 2018, Washington Governor Jay Inslee issued Executive Order
4 18-02 establishing the Southern Resident Killer Whale Recovery Task Force and directing
5 state agencies to take immediate actions to help the struggling Southern Resident Orcas
6 and to develop a long-term plan for recovering orcas (the "Task Force"). The Task Force
7 included nearly fifty members representing a wide range of sectors including state
8 agencies, the legislature, and state, tribal, federal and local governments, as well as
9 private sector and non-profit organizations.

10 2.7. To this issue, the Task Force's November 16, 2018, Report and
11 Recommendation recommended that the buffer under RCW 77 .15. 7 40 be increased to
12 four hundred (400) yards behind the Southern Resident Orcas.

13 2.8. The Task Force recommendations were taken up by the Washington
14 legislature and resulted in SB 5577. On May 8, 2019, Governor Inslee signed SB 5577
15 into law. Again using its delegated authority from federal law, Washington amended RCW
16 77.15.740 with the aim to further enhance the protection of the endangered Southern
17 Resident Orcas. The law increases the buffer distance under RCW 77.15.740 from two
18 hundred (200) yards to three hundred (300) yards, maintains the four hundred (400) yard
19 restriction for vessels in the path of Southern Residents, and adds an additional restriction
20 of four hundred (400) yards for vessels positioned behind the path of Southern Residents.

21 2.9. Significantly, SB 5577 also (1) establishes a speed limit of seven knots
22 when a vessel is within one-half nautical mile of a Southern Resident Orcas; (2)
23 implements a licensing requirement and fees for operation of a commercial whale watching
24 business; and (3) directs that the Washington State Department of Fish and Wildlife adopt
25 extensive and comprehensive regulations governing how, when, and where commercial

1 whale watching vessels can operate in and around Southern Resident Orcas throughout
2 the waters of Washington State including, but not limited to, those waters in San Juan
3 County.

4 2.10. The Proposed Initiative: Overlapping with the timing of the passing and
5 signing of SB 5577, Southern Resident Protection, through Defendant North, submitted a
6 proposed ballot initiative to the San Juan County Auditor seeking to add new sections to
7 Chapter 10.28 of the San Juan County Code. These proposed sections would, in part,
8 require vessels to maintain a minimum distance of six hundred fifty (650) yards from
9 Southern Residents, directly conflicting with RCW 77.15.740 as amended by SB 5577 and
10 the NOAA regulations, each which measures were subjected to years of study, analysis,
11 and stakeholder input before their eventual adoption.

12 2.11. As part of the legislative process leading to the adoption of SB 5577, the
13 Legislature considered the proposed six hundred fifty (650) yard buffer distance and
14 ultimately rejected that proposed buffer on evidence that the proposed six hundred fifty
15 (650) yard buffer represented a greater net risk of harm to the Southern Residents than
16 imposing the enacted three hundred (300) and four hundred (400) yard buffers.

17 2.12. The Southern Resident Protection organization and North first submitted the
18 Initiative on April 23, 2019, with a revised version submitted on May 7, 2019. *See* Exhibit
19 "B." A copy of the April 23, 2019, San Juan County Initiative Submission Form is attached
20 as Exhibit "C."

21 2.13. Upon information and belief, San Juan County issued initiative number
22 2019-9 to the Initiative. If Defendants Southern Resident Protection organization and/or
23 North gather enough signatures, San Juan County will put the Initiative on the November
24 2019 general election ballot.
25

1 **III. FIRST CAUSE OF ACTION—DECLARATORY JUDGMENT**

2 3.1 This matter is ripe for declaratory relief because a dispute exists as to the
3 validity of the Initiative. A declaratory judgment action is proper to determine the validity or
4 invalidity of the Initiative for the purpose of determining whether the Initiative should be
5 printed on the November 2019 ballot for the general election. Unless the Initiative is
6 determined to be within the scope of the initiative power by the Court, it cannot be properly
7 placed on the ballot under the San Juan County Charter and state law. This is confirmed
8 by San Juan County ordinance 1.24.040, which provides that:

9 An initiative proposal shall not be put to the people for a vote where the
10 subject of the initiative is not subject to the power of initiative as
11 determined by the Constitution, statutes, or case law of the state of
12 Washington. When a superior court has declared that the proposed
 initiative is not subject to the power of initiative, the County auditor shall
 not place the matter on the ballot unless a final ruling is made by an
 appellate court reversing the decision of the superior court, . . .

13 3.2 The Initiative is beyond the scope of initiative power under the San Juan
14 County Charter. Without limiting the generality of the foregoing, the Initiative is preempted
15 by both federal and state law, and also usurps the grant of authority to the San Juan County
16 Council to exercise its police powers. Accordingly, a pre-election declaratory judgment is
17 appropriate.

18 3.3 First Basis for Declaratory Judgment: Conflict Preemption Under State Law:
19 Under Washington State law, RCW 77.55.740 as amended by SB 5577 preempts the
20 ordinance proposed by the Initiative. It is well-settled in Washington that:

21 Under our conflict preemption precedents, a state law preempts a local ordinance
22 “when an ordinance permits what state law forbids or forbids what state law
23 permits.” We will find state law to preempt an ordinance only if the ordinance
24 “directly and irreconcilably conflicts with the statute.”¹

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 ¹ *Cannabis Action Coalition v. City of Kent*, 183 Wn. 2d 219, 227, 351 P.3d 151 (2015) (en banc).

1 Here, the Initiative prevents vessels from approaching any closer than six hundred fifty (650)
2 yards from Southern Resident Orcas, directly forbidding what state law permits in RCW
3 77.15.740 as amended by SB 5577, i.e. approaches of three hundred (300) and four hundred
4 (400) yards from Southern Residents.

5 3.4 Second Basis for Declaratory Judgment: Implied Field Preemption under
6 State Law: Field preemption occurs when there is express legislative intent to occupy the
7 entire field, or when such intent is necessarily implied.² Field preemption may be implied
8 “from the purpose of the statute and the facts and circumstances under which it was
9 intended to operate.”³ RCW 77.55.740 as amended by SB 5577 expressly delegates to the
10 Washington State Department of Fish and Wildlife the authority to create regulations
11 governing commercial whale watching license holders in the inland waters of Washington
12 that are “designed to reduce the daily and cumulative impacts on southern resident orca
13 whales”⁴ Under RCW 77.55.740 as amended by SB 5577, “inland waters of
14 Washington” broadly means “Puget Sound and related inland marine waters, including all
15 salt waters of the state of Washington inside the international boundary line between
16 Washington and British Columbia”⁵ RCW 77.15.740, as amended by SB 5577,
17 occupies the entire field and the Initiative is therefore preempted.

18 3.5 Third Basis for Declaratory Judgment: Express Preemption Under Federal
19 ESA and MMPA: The federal Endangered Species Act (“ESA”) and Marine Mammals
20 Protection Act (“MMPA”) both expressly preempt the proposed Initiative. The ESA allows
21 for cooperative agreements between the federal government and the *states* and
22

23 ² *Watson v. City of Seattle*, 189 Wn. 2d 149, 171, 401 P.3d 1 (2017).

24 ³ *See, e.g. Emerald Enterprises, LLC v. Clark County*, 2 Wn. App. 2d 794, 814, 413 P.3d 92 (Div. 2
25 2018).

⁴ SB 5577 p.4.

⁵ *Id.* at p.5.

1 encourages the *states* to enact more stringent regulations to protect endangered species.
2 See 16 U.S.C. § 1535(f). The ESA narrowly defines “State” as “any of the several States
3 [and territories],”⁶ thus preempting the adoption of city and county ordinances regulating
4 the protection of endangered species, such as the proposed Initiative. Under the MMPA,
5 Congress reserved to itself the regulation and management of marine mammals, which
6 can be delegated to states but not counties; therefore, the Initiative is preempted by the
7 MMPA.

8 3.6 Fourth Basis for Declaratory Judgment: Power to Adopt Measure Outlined in
9 Initiative Has Been Delegated Exclusively to the Legislative Body of San Juan County: To
10 the extent the County has any legislative power with respect to the regulation of vessels
11 in and around Southern Residents, the authority has been delegated exclusively to the
12 County's legislative body, i.e. the County Council and such authority is not subject to direct
13 legislation through initiative.

14 IV. SECOND CAUSE OF ACTION—INJUNCTIVE RELIEF

15 4.1. If permitted to be placed on an upcoming ballot, the Initiative will result in
16 significant harm to the Plaintiffs and damages for which there is no adequate remedy at
17 law.

18 4.2. The Plaintiffs are entitled to an injunction preventing Defendants County
19 and Auditor from placing the Initiative on any future ballot, regardless of how many
20 signatures Defendants North and/or Southern Resident Protection organization collect.

21 V. REQUEST FOR RELIEF

22 Plaintiffs ask that the Court grant the following relief:
23
24

25 ⁶ 16 U.S.C. § 1532(17).

5.1. A declaratory judgment in favor of Plaintiffs declaring that Initiative No. 2019-9 entitled “San Juan County Orca Protection Initiative” is preempted by state and/or federal law;

5.2. A declaratory judgment in favor of Plaintiffs declaring that the Initiative is beyond the scope of initiative power of the County;

5.3. A declaratory judgment in favor of Plaintiffs that the Initiative should not be placed on any ballot;

5.4. For a permanent injunction precluding the County and/or Auditor from placing the Initiative on any ballot;

5.5. Entry of judgment awarding the Plaintiffs their statutory attorneys' fees and costs; and

5.6. For such other relief that the court deems appropriate.

DATED this 2 day of May, 2019.

CHMELIK SITKIN & DAVIS P.S.

Frank J. Chmielek, WSBA #13969
Seth A. Woolson, WSBA #37973
T. Todd Egland, WSBA #48788
Brian C. Nadler, WSBA #51199
Attorneys for Plaintiffs

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EXHIBIT A

AN ACT to protect endangered Southern Resident Killer Whales from unnecessary and excessive vessel noise and disturbance; adding new sections to Chapter 10.28 of the San Juan County Code.

BACKGROUND

WHEREAS the Southern Resident Killer Whale population consists of just 75 individuals, near the lowest number observed in recorded history;

WHEREAS the Southern Resident Killer Whales were designated as depleted under the federal Marine Mammal Protection Act in 2003 and were listed as endangered under the federal Endangered Species Act on November 18, 2005, when they numbered 88 orcas;

WHEREAS the Southern Resident Killer Whales were listed as endangered under Canada's Species At Risk Act in 2003;

WHEREAS the Southern Resident Killer Whales have been and continue to be designated as an endangered species by the Washington State Department of Fish and Wildlife;

WHEREAS only 18 female Southern Resident Killer Whales have given birth in the last 24 years, just 7 additional females are of breeding age, and 4 females are not yet old enough to reproduce;

WHEREAS the Southern Resident Killer Whales have an inherent worth, dignity, interest in, and right to life, autonomy, freedom from harm, safe passage, adequate food, and the continued existence of their species;

WHEREAS the Southern Resident Killer Whales are an iconic symbol of Washington State and the San Juan Islands, provide substantial scientific, educational, and spiritual benefits to the people of the San Juan Islands, including local Tribes, and visitors;

WHEREAS the Southern Resident Killer Whales suffer from several anthropogenic threats, including lack of food, water pollution, vessel noise and disturbance, and the risk of a catastrophic oil spill;

WHEREAS Southern Resident Killer Whales use sound for hunting, communicating, and detecting threats;

WHEREAS noise from vessels of all sizes interferes with the Southern Resident Killer Whales' ability to communicate, detect threats, and hunt for their preferred food, salmon;

WHEREAS the impacts of vessel noise and presence increase in magnitude the closer that vessels approach the Southern Resident Killer Whales;

WHEREAS Southern Resident Killer Whales respond to the presence of vessels by altering their behavior in ways that require increased energy;

WHEREAS the marine waters of San Juan County have historically furnished the Southern Resident Killer Whales with their core summer habitat;

WHEREAS San Juan County is an archipelago that includes surrounding marine waters, whose territory is described at RCW 36.04.280 as follows:

Commencing in the Gulf of Georgia at the place where the boundary line between the United States and the British possessions deflects from the forty-ninth parallel of north latitude; thence following said boundary line through the Gulf of Georgia and Haro Strait to the middle of the Strait of Fuca; thence easterly through Fuca Straits along the center of the main channel between Blunt's Island and San Juan and Lopez Islands to a point easterly from the west entrance of Deception Pass, until opposite the middle of the entrance to the Rosario Straits; thence northerly through the middle of Rosario Straits and through the Gulf of Georgia to the place of beginning.

WHEREAS San Juan County possesses the authority to limit the proximity with which boats, seaplanes, airplanes, helicopters, gliders, and drones are permitted to approach the Southern Resident Killer Whales;

WHEREAS Washington State created a Southern Resident Orca Task Force in 2018 that acknowledged the dire plight of the Southern Resident Killer Whales and recommended, among other actions, an increase in the size of the current protected area and a short-term moratorium on whale watching;

WHEREAS the scientific literature indicates that current vessel guidelines do not allow the Southern Resident Killer Whales to fully utilize their ability to hunt and communicate by sound; and

WHEREAS San Juan County Ordinance No. 35-2007, which addressed the operation of vessels in proximity to Southern Resident Killer Whales, expired in 2009 with the adoption of vessel regulations by the National Marine Fisheries Service.

BE IT ENACTED BY THE PEOPLE OF SAN JUAN COUNTY:

Section 1. A new Article III, titled, "Operation of Vessels in Proximity to the Southern Resident Killer Whale," ("Article") is added to the San Juan County Code, Chapter 10.28 – WATERCRAFT REGULATIONS, as follows:

NEW SECTION. Sec. 1.1. Purpose and Authority.

A. Purpose. This people's initiative protects the Southern Resident Killer Whale (*Orcinus orcas*) ("Southern Residents"), listed as endangered under the U.S. Endangered Species Act and Canadian Species At Risk Act, depleted under the U.S. Marine Mammal Protection Act, and endangered under Washington law, from unnecessary and harmful vessel noise and

disturbance that impairs their ability to hunt for fish, rest, socialize, and travel. By establishing a scientifically-based vessel-free protected area around the Southern Residents in their core summer foraging habitat, this initiative will increase the range and effectiveness of the Southern Residents' echolocation, communication, and hearing, and will decrease the amount of energy that the Southern Residents have become required to expend as the number of Vessels in their close proximity has increased substantially. This Article supplements other local, state, and federal efforts to address the need to restore Southern Resident prey species such as threatened salmon, to decrease marine pollution and the risk of oil spill, and to limit noise impacts throughout the Southern Residents' habitat. This initiative is not intended to penalize operators whose Vessels are approached by the Southern Residents and who could not through diligent observation and effort maintain the prescribed distance, due to factors such as unpredictable travel by the Southern Residents or limited visibility.

B. Authority.

1. This Article is adopted pursuant to the police power authority granted to San Juan County in Article XI, Section 11, of the Washington Constitution, and the authority granted to states to adopt more restrictive provisions with respect to the taking of endangered species pursuant to 16 U.S.C. § 1535(f) (the Endangered Species Act).
2. The conservation and restoration of the Southern Residents substantially benefits the public health, safety, and welfare of the people of San Juan County.
3. This Article applies to the operation of Vessels only in, on, and above San Juan County marine waters and only during the times that the SRKW are present there.

NEW SECTION. Sec. 1.2. Definitions.

The following terms have the following definitions for the purpose of this Article III.

A. "Commercial fishing" means taking or harvesting fish or fishery resources to sell, barter or trade. "Commercial fishing" does not include commercial sport fishing boats used for charter operations or sport fishing.

B. "Enforcement Officer" means the San Juan County Sheriff or their designee.

C. "Public Vessel" means a vessel that is: (1) owned or demise chartered, and operated by the United States government, the government of the state of Washington or any department thereof, San Juan County or any department thereof, or a government of a foreign country; and (2) not engaged in commercial service.

D. "Vessel" means every description of watercraft, including but not limited to nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on, above, or under water. Vessel also means aircraft that travel by air without

contacting water, including but not limited to airplanes, helicopters, gliders, and drones.

NEW SECTION. Sec. 1.3. General Guidance and Objectives.

The master and operator of every Vessel in San Juan County has a duty to maintain a lookout for Southern Residents while operating on, above, or below the marine waters of San Juan County, to observe their direction of travel, and to safely operate the Vessel to maintain a minimum distance of 650 yards from any Southern Residents. In addition, all masters and operators of Vessels must reduce speed in proximity to any Southern Residents to protect them from unnecessary noise and interference.

NEW SECTION. Sec. 1.4. Unlawful Activity In Proximity To The Southern Residents.

A. Prohibited Conduct. Unless a person falls within one of the exceptions provided in Subsection B of this Section 1.4, they must not in San Juan County marine waters:

1. Allow a Vessel to be within 650 yards in any direction of a Southern Resident;
2. Position a vessel and disengage the transmission in the path of a Southern Resident so that the Vessel fails to remain at least 650 yards from a Southern Resident. This includes intercepting a Southern Resident by positioning a Vessel so that the prevailing wind, water current, or Southern Resident travel trajectory would bring the Vessel into the path of the Southern Resident;
3. Operate a Vessel in excess of seven (7) knots over ground at any point located within one-half nautical mile (1013 yards) of a Southern Resident; or
4. Feed a Southern Resident.

B. Exceptions. A Vessel operator does not violate this Section 1.4 if one of the the following exceptions applies.

1. the person is operating a federal government Vessel in the course of official duties, or operating a state, tribal, or local government Vessel when engaged in official duties involving law enforcement, search and rescue, or public safety; or
2. the person is operating a Vessel in conjunction with a vessel traffic service established under 33 C.F.R. and following a traffic separation scheme, or complying with a vessel traffic service measure of direction. This includes support Vessels escorting ships in the traffic lanes, such as tug boats; or
3. the person operating the Vessel is lawfully engaged in an activity, including scientific research, and in full compliance with a permit or other authorization from the National Marine Fisheries Service or the Washington Department of Fish and Wildlife; or

4. the person operating the Vessel is lawfully engaged in a treaty Indian or commercial fishery that is actively setting, retrieving or closely tending fishing gear. Vessels in transit are not exempt from subsection A of this section; or

5. the person operating the Vessel is conducting vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment, including when necessary for overall safety of navigation and to comply with state and federal navigational requirements; or

6. the person operating the Vessel is engaging in rescue or clean-up efforts of a beached Southern Resident overseen, coordinated, or authorized by a volunteer stranding network; or

7. the person operating the Vessel is in a narrow channel and cannot change direction for safety reasons or a Southern Resident moves within 650 yards of the Vessel and the operator could not, through reasonable diligence or due to limited visibility, have detected its approach. If the Southern Resident appears within 300 yards of the Vessel, the person operating the Vessel must disengage the transmission of the Vessel if it is a watercraft. If the Southern Resident appears between 300 and 650 yards of the Vessel, or within 650 yards of a non-watercraft Vessel, its operator must move the Vessel away from the Southern Resident to a distance of at least 650 yards from the Southern Resident.

C. Speed Limit for Excepted Vessels. To the maximum extent possible, Vessel operators conducting activities under one of the exceptions above must travel at a speed of 7 knots over ground or less.

D. Burden of Proof. A person who qualifies for an exemption under subsection 1.4.B. of this section may offer that exemption as an affirmative defense, which that person must prove by a preponderance of the evidence.

NEW SECTION. Sec. 1.5. Presumption.

In any infraction involving a violation of this Article in the presence of a law enforcement officer in a marked vessel, proof that the particular Vessel described in the notice of infraction was in violation of SJCC 10.28.170, together with proof that the person named in the notice of infraction was at the time of the violation the registered owner of the Vessel, constitutes in evidence a prima facie presumption that the registered owner of the Vessel was the person in control of the Vessel at the point where and for the time during which the violation occurred. This presumption may be overcome only if the registered owner of the Vessel states under oath, in a written statement or testimony to the court that the Vessel was, at the time, stolen, or in the care, custody, or control of some person other than the registered owner.

NEW SECTION. Sec. 1.6. Enforcement.

A. Penalties. A violation of this Article carries a civil penalty subject to the following schedule:

1. The first violation of any provision of this Article shall carry a fine of \$500, not including statutory assessments added pursuant to RCW 3.62.090;
2. The second violation of any provision of this Article within one year shall be punishable by a fine of up to \$1,000; and
3. The third or subsequent violation of any provision of this Article within one year shall be punishable by a fine of up to \$2,500.

B. Right to Hearing. Notwithstanding the provisions of any other code, the Enforcement Officer is authorized to issue the civil penalties identified in Subsection A above. With the exception of monetary penalties, and to the extent that there is no conflict with this Article, all such civil violations under this Article shall be governed by the standards and procedures set forth in Chapter 7.80 RCW (Civil Infractions).

Section 2. Codification. This initiative shall be codified in chapter 10.28 San Juan County Code.

Section 3. Severability. If any provision of this initiative or its application to any person or circumstance is held invalid, the remainder of this initiative or the application of the provision to other persons or circumstances shall not be affected. Remaining sections of the initiative shall be interpreted to give effect to the spirit of the initiative prior to the removal of the portions declared invalid.

Section 4. Effective Date. This initiative shall take effect January 1, 2020.

EXHIBIT B

I, (name) Sorrel North am a legal registered voter or an organization of legal voters, (name of organization) Southern Resident Protection, all of whom are legal registered voters in San Juan County.

I (or) we herewith submit this proposed initiative measure as described below:

San Juan County Orca Protection Initiative

I request that San Juan County Auditor assign the proposed initiative measure a number and transmit a copy to San Juan County Prosecuting Attorney.

Sponsor Contact Information

Sorrel North

Name

137 Milagra Lane #6

Physical Address

Lopez Island, WA 98261

Mailing Address

360-468-3832 Sorrel@seventhstone.net

Phone Email Address

X Sorrel North 5/7/2019 Signature of
Sponsor Date Signed

EXHIBIT C

I, (name) Sorrel North am a legal registered voter or
an organization of legal voters, (name of organization) Southern Resident Protection
all of whom are legal registered voters in San Juan County.

I (or) we herewith submit this proposed initiative measure as described below:

San Juan County Orca Protection Initiative

I request that San Juan County Auditor assign the proposed initiative measure a number and transmit a copy to San Juan County Prosecuting Attorney.

Sponsor Contact Information

Sorrel North (campaign Manager)
Name
137 Milagra Lane G
Physical Address
Lopez Island, WA 98261
Mailing Address
360-468-3832 sorrel@seventhstone.net
Phone Email Address

x Sorrel North 4/23/19
Signature of Sponsor Date Signed